

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

**VICTOR ANDREW APODACA and
JOHN DOES,**

Plaintiffs,

v.

No. 18-cv-0108 MV/SMV

**NEW MEXICO CORRECTIONS DEPARTMENT,
DAVID JABLONSKI, GEO GROUP, INC.,
DAVID BOWEN, FNU GONZALES, FNU VIGIL,
REGINA TRUJILLO, AMBERLY WARD,
FNU NEWTON, JOHN/JANE DOE, and
FNU BROCK,**

Defendants.

ORDER GRANTING LEAVE TO PROCEED *IN FORMA PAUPERIS*

THIS MATTER is before the Court on Plaintiff's Motion to Proceed *In Forma Pauperis* [Docs. 2, 5], filed February 1, 2018. Plaintiff's financial information reflects he is unable to prepay the \$400.00 filing fee for this action. The Court will therefore grant the motion, which reduces the fee to \$350.00, and allow Plaintiff to pay in installments. See 28 U.S.C. § 1915(b). Plaintiff must make an initial partial payment of "20 percent of the greater of—(A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint..." *Id.* Thereafter, Plaintiff is "required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." 28 U.S.C. § 1915(b)(2).

Plaintiff's inmate account statement reflects that his average monthly deposits are \$68.73, and his average monthly account balance is \$21.65. [Doc. 5]. The Court will assess an initial

payment of \$13.75 (which is 20% of the greater figure, \$68.73) pursuant to § 1915(b)(1)(A). The Court will generally not review the merits of Plaintiff's civil rights complaint unless the initial partial payment is paid or excused. If Plaintiff fails to timely make the initial partial payment, his complaint may be dismissed without further notice.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Proceed *In Forma Pauperis* [Docs. 2, 5] is **GRANTED**.

IT IS FURTHER ORDERED that, within 30 days from entry of this Order, Plaintiff send to the Clerk an initial partial payment of \$13.75 or show cause why the payment should be excused.

IT IS FURTHER ORDERED that the Clerk provide Plaintiff with two copies of this Order, and that Plaintiff make the necessary arrangements to attach one copy of this Order to the check in the amount of the initial partial payment.

IT IS FURTHER ORDERED that, after payment of the initial partial fee, Plaintiff make monthly payments of 20% of the preceding month's income credited to his account or show cause why the designated payments should be excused.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge